

Article - Criminal Procedure

[\[Previous\]](#)[\[Next\]](#)

§3–123.

- (a) (1) In this section the following terms have the meanings indicated.
- (2) “Defendant” means:
 - (i) a committed individual;
 - (ii) an individual found incompetent to stand trial; or
 - (iii) an individual charged with a crime and the issue of whether the individual is incompetent to stand trial has been raised or where a plea of not criminally responsible has been entered.
- (3) “Victim” means a victim of a crime of violence or a victim who has filed a notification request form under § 11–104 of this article.
- (4) “Victim’s representative” includes a family member or guardian of a victim who is:
 - (i) a minor;
 - (ii) deceased; or
 - (iii) disabled.
- (b) A State’s Attorney shall notify a victim or victim’s representative of all rights provided under this section.
- (c) (1) A victim or victim’s representative may request notification under this section by:
 - (i) notifying the State’s Attorney and the Health Department of the request for notification; or
 - (ii) filing a notification request form under § 11–104 of this article.
- (2) A request for notification under paragraph (1)(i) of this subsection shall designate:

(i) the address and telephone number of the victim; or

(ii) the name, address, and telephone number of a victim's representative.

(3) A victim or victim's representative may, at any time, withdraw a request for notification.

(d) If a victim or victim's representative has requested notification in the manner provided under subsection (c) of this section, the Health Department shall promptly notify the victim or the victim's representative in writing when:

(1) the Health Department receives a court order to examine a defendant under this title;

(2) the Health Department receives a court order committing a defendant to the Health Department under this title;

(3) a hearing relating to a defendant is scheduled under this title;

(4) the Health Department receives notice that a defendant has applied for a hearing or filed a petition for release;

(5) the Office recommends that a committed person be released under this title;

(6) the Health Department submits a recommendation to the court for a defendant's conditional release;

(7) the facility of the Health Department that has charge of a defendant has notified the State's Attorney that a defendant is absent without authorization; or

(8) the Health Department receives a court order for the conditional release or discharge from commitment of a defendant.

(e) (1) A victim or victim's representative may submit, in writing or orally, to the State's Attorney and to the facility of the Health Department that has charge of a defendant:

(i) any information that the victim or victim's representative considers relevant; and

(ii) a request that the defendant be prohibited from having any contact with the victim or victim's representative, as a condition of release.

(2) Except for a court hearing to determine if a person is incompetent to stand trial or not criminally responsible, a victim or victim's representative may submit a written or oral statement to the court or the Office conducting a hearing or review relating to a defendant under this title containing:

(i) any information regarding the nature and consequences of the crime and any contact after the crime between the defendant and the victim or the victim's family; and

(ii) a request that the defendant be prohibited from having any contact with the victim as a condition of release.

(f) (1) If a victim or victim's representative submits written or oral information under this section, the Health Department, court, or Office shall:

(i) consider the information;

(ii) maintain at the facility that has charge of the defendant, separate from the medical record of the defendant, the written statement of the victim or victim's representative; and

(iii) delete the victim's or the victim's representative's address and telephone number before any document is examined by the defendant or defendant's representative.

(2) (i) If a victim or a victim's representative has submitted a written factual statement under subsection (e)(2)(i) of this section to the Health Department, at least 30 days before a hearing or review under this title the Health Department shall notify the defendant or defendant's representative in writing of the intended use of the victim's or victim's representative's written factual statement and send to the defendant or the defendant's representative a copy of the written factual statement to be admitted.

(ii) If the defendant objects to the admission of the written factual statement of the victim or victim's representative, the defendant shall notify the Health Department, State's Attorney, and court or the Office in writing no later than 20 days before the hearing or review.

(iii) If the timely and proper notice required under subparagraph (ii) of this paragraph is provided by the defendant, the written factual

statement is inadmissible without the testimony of the victim or victim's representative.

(iv) Failure of the defendant to give the timely and proper notice under subparagraph (ii) of this paragraph is a waiver of the defendant's right to the presence and testimony of the victim or victim's representative and the written factual statement of the victim or victim's representative shall be admitted.

(v) If a defendant provides notice under subparagraph (ii) of this paragraph, the Health Department shall notify the victim that:

1. the victim's or victim's representative's written factual statement is inadmissible at the hearing without the testimony of the victim or victim's representative; and

2. the victim or victim's representative may attend the hearing and testify.

(g) Except as otherwise provided under this section, this section may not be construed to authorize the release to the victim or victim's representative of any medical, psychological, or psychiatric information on a defendant.

(h) The Health Department shall promptly notify the State's Attorney and a victim or a victim's representative who has requested notification regarding a defendant under this section if:

(1) the defendant is absent without authorization;

(2) a hospital warrant is issued for the defendant; or

(3) notification is required under § 11-508 of this article.

(i) An agent or employee of the Health Department who acts in compliance with this section shall have the immunity from liability described under § 5-522 of the Courts Article.

(j) Before a hearing under this article relating to a defendant, the victim or victim's representative shall be notified of the proceeding as provided under § 11-104 or § 11-503 of this article.

(k) (1) Except as provided in paragraph (2) of this subsection, a victim or victim's representative shall have the right to attend a hearing under this article relating to a defendant as provided under § 11-102 of this article.

(2) At the request of a defendant, the Office, in a release hearing or a violation hearing under this subtitle for an individual found not criminally responsible, may exclude a victim or victim's representative from the expert testimony regarding the defendant's medical, psychological, or psychiatric information if the Office finds the medical, psychological, or psychiatric information is:

- (i) highly sensitive to the defendant; and
- (ii) not relevant to whether the defendant should be released or has violated the conditions of release.

(l) (1) This subsection applies only to a defendant as defined in subsection (a)(2)(ii) or (iii) of this section after the criminal charges against the defendant have been dismissed under § 3–107 or § 3–108 of this title.

(2) If a victim or victim's representative has requested notification in the manner provided under subsection (c) of this section, the Health Department shall promptly notify the victim or the victim's representative in writing if the defendant:

- (i) escapes;
- (ii) is recaptured;
- (iii) is transferred to another facility;
- (iv) is released; or
- (v) has died.

[\[Previous\]](#)[\[Next\]](#)